THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 12237 OF 2005

WEDNESDAY 2ND NOVEMBER, 2005

Between:

G.Nageswara Rao, s/o G.Upender Rao,

Aged 56 years, R/o 1-7-29/1/C, Sai Madhukunj Apartments,

Golkonda X Roads, Musheerabad,

Jamisthanpur Old, Hyderabad – 500 020.

… Petitioner

And :

The Government of Andhra Pradesh,

Industries & Commerce Department,

AP Secretariat, Hyderabad, and another.

… Respondents

:ORAL ORDER:

The petitioner served as a General Manager in The Nizam Sugars Limited and retired as such on 31.10.2002, availing Voluntary Retirement Scheme (VRS) benefit. By the date of retirement or thereafter up-to-date no disciplinary proceedings were initiated against the petitioner either by way of suspension during his active service or by issuance of charge memo thereafter. The petitioner sought payment of his terminal benefits. There being no response to this request and having been paid

only 50% of the terminal benefits on 6.5.2005, three years after his retirement, the petitioner is before this court for appropriate relief.

In view of the decision of the Supreme Court in ***Bhagirathi Jena v Board of Directors, O.S.F.C. & Ors. ()*** and the absence of any power or authority shown by the respondents that entitles the management to initiate or proceed with a domestic enquiry against the petitioner after his retirement and cessation of an employer-employee nexus, the respondents must be held to have no power, authority or jurisdiction to proceed against the petitioner, a former employee, by way of disciplinary proceedings against any allegations of misconduct while in service. The respondents thus have no justification for withholding 50% of the petitioner's terminal benefits. That they have already paid 50% of the petitioner's termination benefits with a delay of 3 years is no answer to the above legal obligation of the respondents.

The writ petition is accordingly allowed. The respondents shall compute and pay to the petitioner the entirety of the terminal benefits due and payable to the petitioner after taking credit for such amounts as have already been paid, expeditiously and in any event within four weeks from the date of receipt of a copy of this order. The petitioner shall be entitled to and be paid the terminal benefits reckoning the entirety of such benefits as payable two months from the date of retirement, together with simple interest @ 6% p.a., calculated from the period two months after the date of retirement up to the date of actual payment. No order as to costs.

Dated: 02.11.2005 ----------

Pvsn Justice G. Raghuram